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## RECENT DECISIONS

BILLS AND NOTES—ACTIONS—WHEN MAINTAINABLE.—The plaintiff demanded payment of defendant's note, payable at a bank, on the day of maturity; and, payment having been refused, began an action against the defendant on the same day after banking hours. The defendant claimed that the action was prematurely brought. *Held*, the action can be maintained. *Williams v. Cumberland Fertilizer Co.* (Ga.), 89 S. E. 1091.

The cases are very much in conflict as to whether or not an action can be brought on a negotiable note on the day of maturity. By the better opinion, it seems that ordinarily the maker should have the whole of the day of maturity in which to pay. *Walter v. Kirk*, 14 Ill. 55; *Heise v. Bumpus*, 40 Ark. 545. But if demand of payment is made on the day of maturity and it is refused, it seems that an action can be maintained on that day; for the maker's contract is to pay upon demand on any part of that day, if the demand is made within reasonable hours. 2 DANIEL, NEG. INST., § 1208. See *Lefily v. Mills*, 4 Term. R. 170. The case seems still stronger when the demand is made on the last day of grace; for grace was originally a matter of indulgence and courtesy. *Staples v. Franklin Bank*, 1 Metc. (Mass.) 43. Some courts decline to follow this view, maintaining that, in every case, the maker should have until the very last minute of the day of maturity in which to pay. *Wilcombe v. Dodge*, 3 Cal. 260, 58 Am. Dec. 411; *State v. Humphreys*, 58 N. J. L. 42, 32 Atl. 706.

If no place of payment is specified, the note is payable at the maker's residence or usual place of business, but no demand is necessary in order to charge him. 1 DANIEL, NEG., INST., § 90; *Oxnard v. Varnim*, 111 Pa. St. 193, 2 Atl. 224; *Bradsley v. Washington Mill Co.*, 54 Wash. 553, 103 Pac. 822, 132 Am. St. Rep. 1133. Where demand has been made for the payment of a note payable at a bank, suit can be commenced on the day of maturity. *Greeley v. Thurston*, 4 Greenl. (Me.) 479; *Staples v. Franklin Bank*, *supra*. But it is generally held that if no demand has been made for the payment of such a note an action begun on the day of maturity is premature. *Veazie Bank v. Winn*, 40 Me. 62; *Vandesande v. Chapman*, 48 Me. 262. This is put on the ground that until demand no default has been made; but, as a note payable at a bank cannot be paid there after banking hours, it seems that the close of banking hours without payment should be regarded as a default. See *Humphreys v. Sutcliffe*, 192 Pa. St. 336, 43 Atl. 954, 73 Am. St. Rep. 819; PARSONS, NOTES AND BILLS, 461.

As the contract of the endorser is that the maker will pay "on presentment and demand" on the day of maturity, it is generally agreed that the action can be instituted against him immediately. LILE, NOTES ON BILLS, NOTES AND CHEQUES, 10. And see *Shed v. Brett*, 1 Pick. (Mass.) 401. It is argued that if an endorser who is only conditionally liable can be sued on the day of maturity, *a fortiori*, the maker may be sued then. *Greeley v. Thurston*, *supra*.